

E-911 IMPLEMENTATION ACT OF 2003

OCTOBER 14, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 2898]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2898) to improve homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 wireless services, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “E–911 Implementation Act of 2003” .

SEC. 2. COORDINATION OF E–911 IMPLEMENTATION.

Part C of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end the following:

“SEC. 158. COORDINATION OF E–911 IMPLEMENTATION.

“(a) E–911 IMPLEMENTATION COORDINATION OFFICE.—

“(1) ESTABLISHMENT.—The Assistant Secretary shall establish an E–911 Implementation Coordination Office to facilitate coordination and communication between Federal, State, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E–911 services.

“(2) PURPOSE OF OFFICE.—The Office shall—

“(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve such coordination and communication;

“(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of E–911 services;

“(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

“(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

“(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

“(3) REPORTS.—The Assistant Secretary shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of E–911 services.

“(b) PHASE II E–911 IMPLEMENTATION GRANTS.—

“(1) MATCHING GRANTS.—The Assistant Secretary, after consultation with the Secretary of Homeland Security and the Chairman of the Federal Communications Commission, and acting through the Office, shall provide grants to eligible entities for the implementation of phase II E–911 services through planning, infrastructure improvements, telecommunications equipment purchases, and personnel training.

“(2) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall be provided from non-Federal sources.

“(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary shall require an eligible entity to certify in its application that—

“(A) in the case of an eligible entity that is a State government, the entity—

“(i) has coordinated its application with the public safety answering points (as such term is defined in section 222(h)(4) of the Communications Act of 1934) located within the jurisdiction of such entity;

“(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of E–911 services, except that such designation need not vest such coordinator with direct legal authority to implement E–911 services or manage emergency communications operations;

“(iii) has established a plan for the coordination and implementation of E–911 services; and

“(iv) has integrated telecommunications services involved in the implementation and delivery of phase II E–911 services; or

“(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

“(4) CRITERIA.—The Assistant Secretary shall issue regulations within 180 days of the enactment of the E–911 Implementation Act of 2003, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section, and shall update such regulations as necessary.

“(c) DIVERSION OF E–911 CHARGES.—

“(1) DESIGNATED E–911 CHARGES.—For the purposes of this subsection, the term ‘designated E–911 charges’ means any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that—

“(A) appear on telecommunications services customers’ bills; and

“(B) are designated or presented as dedicated to deliver or improve E-911 services.

“(2) CERTIFICATION.—Each applicant for a matching grant under this section shall certify to the Assistant Secretary at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated E-911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented.

“(3) CONDITION OF GRANT.—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, all of the funds from such grant shall be returned to the Secretary.

“(4) PENALTY FOR PROVIDING FALSE INFORMATION.—Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall—

“(A) not be eligible to receive the grant under subsection (b);

“(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

“(C) not be eligible to receive any subsequent grants under subsection (b).

“(d) AUTHORIZATION; TERMINATION.—

“(1) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce not more than \$100,000,000 for each of the fiscal years 2004 through 2008 for grants under this section.

“(2) TERMINATION.—The provisions of this section shall cease to be effective on October 1, 2008.

“(e) DEFINITIONS.—As used in this section:

“(1) OFFICE.—The term ‘Office’ means the E-911 Implementation Coordination Office.

“(2) ELIGIBLE ENTITY.—

“(A) IN GENERAL.—The term ‘eligible entity’ means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))).

“(B) INSTRUMENTALITIES.—Such term includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide E-911 services.

“(C) EXCEPTION.—Such term does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

“(3) E-911 SERVICES.—The term ‘E-911 services’ means both phase I and phase II enhanced 911 services, as described in section 20.18 of the Commission’s regulations (47 CFR 20.18), as in effect on the date of enactment of this section, or as subsequently revised by the Federal Communications Commission.

“(4) PHASE II E-911 SERVICES.—The term ‘phase II E-911 services’ means only phase II enhanced 911 services, as described in such section 20.18 (47 CFR 20.18), as in effect on such date, or as subsequently revised by the Federal Communications Commission.”.

SEC. 3. REPORT ON THE DEPLOYMENT OF E-911 PHASE II SERVICES BY TIER III SERVICE PROVIDERS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate detailing—

(1) the number of tier III commercial mobile service providers that are offering phase II E-911 services;

(2) the number of requests for waivers from compliance with the Commission’s phase II E-911 service requirements received by the Commission from such tier III providers;

(3) the number of waivers granted or denied by the Commission to such tier III providers;

(4) how long each waiver request remained pending before it was granted or denied;

- (5) how many waiver requests are pending at the time of the filing of the report;
- (6) when the pending requests will be granted or denied;
- (7) actions the Commission has taken to reduce the amount of time a waiver request remains pending; and
- (8) the technologies that are the most effective in the deployment of phase II E-911 services by such tier III providers.

PURPOSE AND SUMMARY

The purpose of H.R. 2898, the E-911 Implementation Act of 2003, is to facilitate coordination and communication between federal, state, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E-911 services.

BACKGROUND AND NEED FOR LEGISLATION

The nation's wireline telephone infrastructure provides a quick and reliable means of obtaining emergency services. Throughout the United States, many lives have been saved by the existence of so-called 911 services and the rapid response that emergency personnel can make to a 911 caller. 911 calls are typically routed by a local exchange carrier (LEC) to a public safety answering point (PSAP) staffed by professionals trained to assist callers in need of emergency assistance and to direct calls to police, fire, and health emergency response personnel.

The advent of enhanced 911 (E-911) services has added features that permit even more efficient and rapid response by emergency service personnel. In areas with E-911 service, the LEC identifies the telephone number from which the wireline 911 call is made through automatic number identification (ANI). The LEC then accesses a database to determine the address associated with that telephone number and routes the call and the automatic location information (ALI) to the appropriate PSAP for emergency response. This ALI information helps facilitate a rapid response by emergency service personnel, particularly when a caller is disoriented, disabled, unable to speak, or unable to convey his or her location.

An increasing number of emergency calls are placed from wireless rather than wireline telephones. The United States has more than 140 million wireless customers, many of whom witness or experience accidents when they are in reach of their wireless phones but miles from a wireline telephone. Wireless phones present the opportunity to drastically reduce emergency response time and save even more lives.

In 1999, Congress enacted the Wireless Communications and Public Safety Act, which designated 911 as the universal emergency telephone number within the United States for reporting an emergency and requesting assistance. In addition, to ensure that wireless 911 services achieve their potential life-saving capabilities, the Federal Communications Commission (the Commission) has spent more than seven years promulgating rules to make wireless 911, and, in particular, wireless E911, a reality.

The basic 911 rules require wireless carriers to transmit all 911 calls to a PSAP even if the call was placed by a non-subscriber. These rules are designed to avoid a situation in which someone in need of emergency services had to first prove that he or she was

a subscriber before the wireless carrier would transmit the call to a PSAP.

The Commission required its E-911 rules for wireless carriers to be implemented in two phases. As of April 1, 1998, or within six months of a request by a PSAP, whichever is later, wireless carriers are required to provide to the appropriate PSAP the telephone number of the originator of a 911 call and the location of the cell site or base station receiving the 911 call. These rules achieve two goals. First, the rules provide emergency personnel with some information concerning the general location from which a wireless 911 call has been made. In addition, the Phase I rules enable emergency personnel to re-establish a connection with a caller if the call is lost.

The Phase II rules focus on the ability of a wireless carrier to provide ALI. Initially, the Commission believed that ALI would be implemented by wireless carriers using network-based technologies. However, since the rules were originally conceived, location technologies for handsets have become commercially viable. As a result, in September 1999, the Commission established separate accuracy requirements and deployment schedules for network-based and handset-based technologies.

E-911 Phase II rules, for both handset and network-based solutions, originally required such solutions to be implemented, at least in part, by October of 2001. However, at that time, as a result of numerous technological, operational, and economic issues, the Commission revised its schedule for E-911 Phase II compliance.

In its revised rules, the Commission required wireless carriers to file quarterly reports to enable the Commission to monitor progress made by the carriers in implementing E-911. For five of the six largest wireless carriers (AT&T Wireless, Cingular Wireless, Nextel, Sprint PCS, and Verizon Wireless), the Commission established company-specific schedules for E-911 implementation depending upon the technology used to provide ALI. In July 2002, the Commission also granted waivers from the Phase II implementation deadlines to mid-sized and small wireless carriers.

After the Commission revised its E-911 implementation schedule in October 2001, the agency realized that it needed assistance in clarifying the technological, operational, and economic issues facing Phase II deployment and in finding solutions to those problems. As a result, the Commission turned to Dale Hatfield, a former head of the Commission's Office of Engineering and Technology. Hatfield conducted a six-month inquiry that began on April 15, 2002 at the conclusion of which he produced a report (the Hatfield Report), which included his findings and recommendations.

The Hatfield Report cites several problems facing Phase II E-911 deployment. First, Hatfield concludes that federal and state E-911 implementation programs are fragmented, and that coordination among public and private entities needs to be vastly improved. Second, Hatfield finds that E-911 deployment is being slowed because many PSAPs vary wildly with respect to technological capabilities, and lack a cost recovery mechanism. Moreover, in some cases, E-911 funds derived from cost recovery mechanisms are being diverted for other governmental purposes. Third, Hatfield asserts that LECs play an extremely important, and often overlooked, role in E-911 deployment, and that the LEC-portion of the E-911 equa-

tion presents some serious problems that need to be addressed, especially the fact that the existing wireline infrastructure in some areas is antiquated. Fourth, Hatfield concludes that many technical hurdles still remain to E-911 deployment and that vendors are not providing E-911 solutions that necessarily work in all geographic and topographical areas.

The Hatfield Report makes a number of recommendations. Hatfield calls for closer cooperation at the federal and state level and among all parties responsible for E-911 deployment. In particular, Hatfield recommends that a "National 911 Program Office" be established within the Department of Homeland Security. Hatfield also calls on the Commission, directly or through an advisory committee, to help address technical problems and to serve as a clearinghouse for information. In addition, Hatfield concludes that greater attention needed to be paid to the implementation of cost recovery mechanisms for PSAPs and to the pricing of services provided by LECs to PSAPs. Further, the Hatfield Report recommends that the Commission foster industry cooperation on industry-wide procedures for testing and certification of wireless E-911.

H.R. 2898 attempts to remedy several of the problems identified in the Hatfield Report. H.R. 2898 creates a national office to facilitate greater coordination and communication among E-911 stakeholders and to serve as a clearinghouse for E-911 -related information. H.R. 2898 also focuses attention on the diversion of E-911 funds by states and other taxing jurisdictions by denying entities located in such jurisdiction access to E-911 -related grants.

HEARINGS

The Subcommittee on Telecommunications and the Internet held a hearing on H.R. 2898 on September 11, 2003. The Subcommittee received testimony from the Honorable Tim Berry, State Treasurer, State of Indiana; John Muleta, Chief of the FCC's Wireless Telecommunications Bureau; Anthony Haynes, Executive Director, Tennessee Emergency Communications Board; and Terry Addington, President and CEO, First Cellular of Southern Illinois.

COMMITTEE CONSIDERATION

On Tuesday, September 23, 2003, the Subcommittee on Telecommunications and the Internet met in open markup session and approved H.R. 2898 for Full Committee consideration, as amended, by a voice vote, a quorum being present. On Wednesday, October 1, 2003, the Full Committee met in open markup session and ordered H.R. 2898 favorably reported to the House, as amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 2898 reported. A motion by Mr. Tauzin to order H.R. 2898 reported to the House, as amended, was agreed to by a voice vote. Chairman Tauzin asked for and received unanimous consent to make technical and conforming changes to the bill.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 2898 is to facilitate better coordination and communications among stakeholders involved in E-911 Phase 2 implementation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2898, the E-911 Implementation Act of 2003, would result in changes to budget authority, entitlement authority, and tax expenditures and revenues to the extent stated below in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 7, 2003.

Hon. W.J. "BILLY" TAUZIN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC,*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2898, the E-911 Implementation Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Melissa Zimmerman.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 2898—E-911 Implementation Act of 2003

Summary: H.R. 2898 would authorize the appropriation of \$100 million a year to the National Telecommunications and Information Agency (NTIA) for grants to state and local governments and tribal organizations for improving emergency communications services. It

also would establish the E-911 Implementation Coordination Office within the NTIA to administer these grants and to improve coordination of emergency communications services.

H.R. 2898 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit state, local, and tribal governments by authorizing grants to enhance services for emergency communication.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2898 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	107	107	107	107	107
Estimated outlays	45	87	107	107	107

Basis of estimate: H.R. 2898 would authorize the appropriation of \$100 million a year to NTIA for grants to state and local governments and tribal organizations for improving emergency communications systems. The bill also would establish the E-911 Coordination Office within the NTIA to administer these grants and to improve coordination between Federal, state, and local emergency communications services, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved with emergency services. Based on information provided by NTIA, CBO estimates that administering these grants and performing other responsibilities under the bill would cost NTIA about \$7 million a year. Assuming appropriation of the authorized amounts for the grants and performing other responsibilities under the bill would cost NTIA about \$7 million a year. Assuming appropriation of the authorized amounts for the grants and the estimated administration needs of the new E-911 Coordination Office, CBO estimates that implementing the grant program through this new office would cost \$45 million in 2004 and \$453 million over the 2004–2008 period.

Intergovernmental and private-sector impact: This bill contains no intergovernmental or private-sector mandates as defined in UMRA. It would benefit state, local, and tribal governments by authorizing matching grants to enhance services for emergency communication. Any costs to those governments would be incurred voluntarily as conditions of receiving federal aid.

Previous CBO estimates: On August 26, 2003, CBO transmitted a cost estimate for S. 1250, the Enhanced 911 Emergency Communications Act of 2003, as ordered reported by the Senate Committee on Science, Commerce, and Transportation on July 17, 2003. S. 1250 would authorize the appropriation of \$500 million a year to the NTIA for grants for improving emergency communications services, while H.R. 2989 would authorize \$100 million a year for the grants. S. 1250 also would direct the Federal Communications Commission to monitor the collection and spending of fees levied by states for the purposes of supporting emergency communications systems, while H.R. 2898 does not. Finally, S. 1250 would establish a multi-agency taskforce for improving coordination of emergency

communications systems while H.R. 2898 would charge the NTIA with that responsibility. Our cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Melissa E. Zimmerman. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 establishes the short title of the bill, the “E-911 Implementation Act of 2003.”

Section 2. Coordination of E-911 implementation

Section 2 of the bill amends the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) by creating a new Section 158.

Section 158(a)(1) establishes an E-911 Implementation Coordination Office (the Office) to facilitate coordination and communication between federal, state, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E-911 services.

Section 158(a)(2) sets forth the purposes of the Office. The Office is required to (1) take actions in conjunction with state E-911 coordinators to improve coordination and communication among E-911 stakeholders; (2) develop, collect, and disseminate E-911-related information; (3) help eligible entities prepare E-911 implementation plans; and, (4) administer the E-911 grant program.

Section 158(a)(3) requires the Assistant Secretary of Commerce for Communications and Information (NTIA Administrator) to provide an annual report to Congress on the activities of the office to improve coordination and communication with respect to E-911 implementation.

Section 158(b)(1) requires the NTIA Administrator, after consultation with the Secretary of Homeland Security and the Chairman of the Federal Communications Commission, to provide grants for Phase II E-911 implementation through the Office to eligible entities. The Phase II E-911-related activities for which grants may be awarded are planning, infrastructure improvements, telecommunications equipment purchases, and personnel training.

Section 158(b)(2) provides that the federal share of the cost of a project eligible for a grant awarded under this section cannot exceed 50 percent. Section 158(b)(2) also requires that the non-federal share of the cost must be provided from non-federal sources.

Section 158(b)(3) provides that a state government that is an eligible entity receiving a grant under this section must certify in its application that the entity has (1) coordinated its application with PSAPs in the state; (2) designated a single officer or government body of the state as the coordinator of E-911 implementation; (3) established a plan for the coordination and implementation of E-911 services; and, (4) integrated its telecommunications services involved in E-911 implementation and delivery. Section 158(b)(3) clarifies, however, that to be an eligible entity, a state does not have to vest its E-911 coordinator with direct legal authority to implement E-911 services or manage emergency communications operations.

Section 158(b)(3) also requires an eligible entity that is not a state to (1) coordinate its application with PSAPs in the state; (2) establish a plan for the coordination and implementation of E-911 services; and, (3) integrate its telecommunications services involved in E-911 implementation and delivery. In addition, the state in which the eligible entity is located must have designated an E-911 coordinator.

Section 158(b)(4) requires the NTIA Administrator to issue regulations regarding the grant program within 180 days of enactment that prescribe the criteria for selection for grants.

Section 158(c)(1) defines “designated E-911 charges” as any taxes, fees, or other charges imposed by a state or other taxing jurisdiction that appear on telecommunications services customer bills and are designated or presented as dedicated to deliver or improve E-911 services. By “fees, taxes, and other charges imposed by a State or other taxing jurisdiction,” the Committee means fees, taxes, and other charges that a state or other taxing jurisdiction requires a telecommunications carrier to collect and remit to the state or other jurisdiction, and not fees that telecommunications carriers collect from their customers to defray the carriers’ E-911 costs.

Section 158(c)(2) requires grant applicants to make a certification at the time of application, and annually thereafter during the period in which funds are available for entities awarded grants. The applicants (and recipients) must certify that no portion of any designated E-911 charges imposed by a state or other taxing jurisdic-

tion within which the applicant (or recipient) is located are being diverted to other purposes.

Section 158(c)(3) requires each applicant to agree to return any funds from a grant if a state or taxing jurisdiction in which the applicant is located diverts E-911 monies to other purposes during the period in which funds are available for entities awarded grants.

Section 158(c)(4) provides that any applicant that makes a certification under this section knowing that such information is false shall not be eligible to receive any grant under this section, including the one that is the subject of the certification, and shall return any funds awarded during the time that the certification was not valid.

Section 158(d) authorizes \$100,000,000 to be appropriated annually for each of the fiscal years 2004 through 2008. Section 158(d) also terminates the section effective on October 1, 2008.

Section 158(e)(1) defines the term “Office” to mean the E-911 Implementation Coordination Office.

Section 158(e)(2) defines an eligible entity as a state, local government, or tribal organization, and includes public authorities, boards, commissions, and similar bodies created by one (or more) state, local government, or tribal organization. The term “eligible entity” does not include any entity that has failed to submit the most recently required certification within 30 days after such certification is due.

Section 158(e)(3) defines E-911 services as both Phase I and Phase II enhanced 911 services as described by the Commission in 47 CFR 20.18, as in effect on the date of enactment or as subsequently amended by the Commission.

Section 158(e)(4) defines Phase II E-911 services as such services are described by the Commission in 47 CFR 20.18, as in effect on the date of enactment or as subsequently amended by the Commission.

Section 3. Report on the deployment of E-911 Phase II services by Tier III service providers

Section 3 requires the Commission to report to the Committee and to the Senate Committee on Commerce, Science, and Transportation within 90 days regarding the Commission’s process for granting waivers to Tier III commercial mobile service providers from the Commission’s Phase II E-911 rules. The report must detail the number of Tier III carriers offering Phase II services, the number of such carriers that have requested waivers from the Phase II E-911 rules, the number of waivers by Tier III carriers granted or denied, how long each waiver remained pending before granted or denied, the number of waiver requests pending at the time of the report and when such requests will be granted or denied, and actions taken by the Commission to reduce the amount of time a waiver request remains pending.

Section 3 also provides that the report must also detail the technologies that are the most effective in the deployment of Phase II E-911 services by Tier III carriers. Because many Tier III carriers serve rural areas where the terrain makes some Phase II E-911 solutions difficult to implement, such carriers will benefit from the Commission’s insights regarding which technologies are proving

successful in rural areas in enabling Tier III carriers to meet the Commission's Phase II E-911 accuracy requirements.

As the number of waivers filed by Tier III carriers indicates, such carriers have struggled with implementation of the Commission's Phase II E-911 requirements. Many of the Tier III carriers have made a good faith attempt to comply with the Commission's rules. However, network-based Phase II E-911 solutions are difficult to implement in areas in which cellular towers are farther apart. In addition, a carrier cannot currently offer customers handsets that comply with Phase II E-911 requirements if the carrier has deployed the Time Division Multiple Access (TDMA) or Global System for Mobility (GSM) air-interfaces. Further, a carrier with a limited customer base that deploys the Code Division Multiple Access (CDMA) air-interface might not be able to purchase Phase II E-911-compliant handsets directly from a manufacturer. The Committee hopes that vendors of Phase II E-911 technologies continue to work with Tier III carriers to find solutions that address the unique circumstances faced by those carriers.

The Committee finds that the Commission should work with Tier III carriers that are making a good faith effort to deploy Phase II E-911 services. The waiver process should be utilized by the Commission to assist Tier III carriers that need more time to find the right technological solution to meet the Commission's accuracy requirements. However, the Commission should not relax its accuracy standards, nor should the Commission reward carriers that are not making a good faith effort to satisfy the Commission's Phase II E-911 requirements.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT

TITLE I—NATIONAL TELECOMMUNI- CATIONS AND INFORMATION ADMIN- ISTRATION

* * * * *

PART C—SPECIAL AND TEMPORARY PROVISIONS

* * * * *

SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.

(a) *E-911 IMPLEMENTATION COORDINATION OFFICE.*—

(1) *ESTABLISHMENT.*—*The Assistant Secretary shall establish an E-911 Implementation Coordination Office to facilitate coordination and communication between Federal, State, and*

local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E-911 services.

(2) PURPOSE OF OFFICE.—The Office shall—

(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve such coordination and communication;

(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of E-911 services;

(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

(3) REPORTS.—The Assistant Secretary shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of E-911 services.

(b) PHASE II E-911 IMPLEMENTATION GRANTS.—

(1) MATCHING GRANTS.—The Assistant Secretary, after consultation with the Secretary of Homeland Security and the Chairman of the Federal Communications Commission, and acting through the Office, shall provide grants to eligible entities for the implementation of phase II E-911 services through planning, infrastructure improvements, telecommunications equipment purchases, and personnel training.

(2) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall be provided from non-Federal sources.

(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary shall require an eligible entity to certify in its application that—

(A) in the case of an eligible entity that is a State government, the entity—

(i) has coordinated its application with the public safety answering points (as such term is defined in section 222(h)(4) of the Communications Act of 1934) located within the jurisdiction of such entity;

(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of E-911 services, except that such designation need not vest such coordinator with direct legal authority to implement E-911 services or manage emergency communications operations;

(iii) has established a plan for the coordination and implementation of E-911 services; and

(iv) *has integrated telecommunications services involved in the implementation and delivery of phase II E-911 services; or*

(B) *in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.*

(4) **CRITERIA.**—*The Assistant Secretary shall issue regulations within 180 days of the enactment of the E-911 Implementation Act of 2003, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section, and shall update such regulations as necessary.*

(c) **DIVERSION OF E-911 CHARGES.**—

(1) **DESIGNATED E-911 CHARGES.**—*For the purposes of this subsection, the term “designated E-911 charges” means any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that—*

(A) *appear on telecommunications services customers’ bills; and*

(B) *are designated or presented as dedicated to deliver or improve E-911 services.*

(2) **CERTIFICATION.**—*Each applicant for a matching grant under this section shall certify to the Assistant Secretary at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated E-911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented.*

(3) **CONDITION OF GRANT.**—*Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, all of the funds from such grant shall be returned to the Secretary.*

(4) **PENALTY FOR PROVIDING FALSE INFORMATION.**—*Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall—*

(A) *not be eligible to receive the grant under subsection (b);*

(B) *return any grant awarded under subsection (b) during the time that the certification was not valid; and*

(C) *not be eligible to receive any subsequent grants under subsection (b).*

(d) **AUTHORIZATION; TERMINATION.**—

(1) **AUTHORIZATION.**—*There are authorized to be appropriated to the Department of Commerce not more than \$100,000,000 for each of the fiscal years 2004 through 2008 for grants under this section.*

- (2) *TERMINATION.*—The provisions of this section shall cease to be effective on October 1, 2008.
- (e) *DEFINITIONS.*—As used in this section:
- (1) *OFFICE.*—The term “Office” means the E-911 Implementation Coordination Office.
- (2) *ELIGIBLE ENTITY.*—
- (A) *IN GENERAL.*—The term “eligible entity” means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))).
- (B) *INSTRUMENTALITIES.*—Such term includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide E-911 services.
- (C) *EXCEPTION.*—Such term does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.
- (3) *E-911 SERVICES.*—The term “E-911 services” means both phase I and phase II enhanced 911 services, as described in section 20.18 of the Commission’s regulations (47 CFR 20.18), as in effect on the date of enactment of this section, or as subsequently revised by the Federal Communications Commission.
- (4) *PHASE II E-911 SERVICES.*—The term “phase II E-911 services” means only phase II enhanced 911 services, as described in such section 20.18 (47 CFR 20.18), as in effect on such date, or as subsequently revised by the Federal Communications Commission.